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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8  
9 UNITED STATES OF AMERICA,

No. CR 09-00693-08 CW

10 Plaintiff,

ORDER GRANTING APPEAL OF THE  
UNITED STATES AND ORDERING  
DEFENDANT DETAINED

11 v.

12 NATHAN WILLIE GARDNER, JR.

13 Defendant.  
14 \_\_\_\_\_/

15 On July 29, 2009, a detention hearing was held before  
16 Magistrate Judge Wayne D. Brazil wherein Magistrate Judge Brazil  
17 granted pre-trial release for Defendant Nathan Willie Gardner, Jr.  
18 Magistrate Judge Brazil stayed the release order pending appeal by  
19 the United States. On July 30, 2009, the government filed an  
20 appeal of the release order and a request to stay pretrial release  
21 pending appeal, and on July 30, 2009, the Court issued an order  
22 staying pretrial release and setting a briefing schedule for the  
23 appeal. On August 4, 2009, Defendant filed an opposition to the  
24 appeal. Having considered the government's appeal and Defendant's  
25 opposition thereto,

26 IT IS HEREBY ORDERED that for the reasons set out in the  
27 appeal brief of the United States, the Court finds that Defendant  
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1 has failed to rebut the statutory presumption that he is a danger,  
2 and in any event, the government has established by clear and  
3 convincing evidence the Defendant is a danger to the community.  
4 The pretrial release order of Magistrate Judge Brazil is hereby  
5 reversed. Defendant is ordered detained pending trial or  
6 disposition.

7 8/13/09

8 Dated \_\_\_\_\_



CLAUDIA WILKEN

United States District Judge

11 cc: PTS; WDB; U.S. Marshal  
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United States District Court  
For the Northern District of California